

Remarks

**A. Pending Claims**

Claims 2117-2124, 2126-2162, 2164-2192, and 5396-5402 are currently pending. Claims 2126 and 2164 have been amended.

**B. 35 U.S.C. 112 Rejections**

Claims 2126, 2164, and 5401 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 2126 and 2164 have been amended to call for a heating rate of “less than about 1 °C/day”. Applicant submits that claim 5398 does not require the heating rate to be “less than about 1 °C/day”. Therefore, claim 5401 has not been amended.

The Examiner stated: “Further in this regard, both the independent claims 2117, 2159 and 5398, as well as dependent claims 2126, 2164 and 5401, include heating the formation in a pyrolysis temperature range.” Claim 2117 recites in part: “controlling the heat such that an average heating rate of the part is less than about 1 °C per day in a pyrolysis temperature range of about 270 °C to about 400 °C”. Claim 2159 recites in part: “controlling the heat such that an average heating rate of the first section or the second section is less than about 1 °C per day in a pyrolysis temperature range of about 270 °C to about 400 °C”. Claims 2126 and 2164 recite in part: “wherein the heating pyrolyzes at least some hydrocarbons within the selected volume of the formation”. Applicant submits that “wherein the heating pyrolyzes at least some hydrocarbons within the selected volume of the formation” is an additional feature of “controlling the heat such that an average heating rate ... is less than about 1 °C per day in a pyrolysis temperature range of about 270 °C to about 400 °C”. Applicant respectfully requests removal of the rejection of claims 2126, 2164, and 5401.

**C. Terminal Disclaimer**

Claims 2117-2124, 2126-2155 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1687-1690 and 1694-1721 of copending application No. 10/128,701. Applicant does not believe that a terminal disclaimer is needed for the present application and the above-noted application, but in the interest of expediency, a terminal disclaimer for the applications is provided as a separate document.

**D. Additional Remarks**

Applicant submits that all claims are in condition for allowance. Favorable reconsideration is respectfully requested.

Applicant believes that no fees are due with the filing of this document. If an extension of time is required, Applicant hereby requests the appropriate extension of time. If any fees are required, please appropriately charge those fees to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account Number 50-1505/5659-02300/EBM.

Respectfully submitted,



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